



General Terms and Conditions of ama-X

1. Application of General Terms and Conditions

1.1 In all contractual relationships, in which ama-X ("AGENT") provides services for clients („CUSTOMER“) in the field of Amazon and eBay SEO, E-Commerce and consulting activities in these fields, these general terms and conditions („T&C“) apply exclusively together with the conditions of the offer (including any annexes) provided by AGENT to and accepted by CUSTOMER with reference to these T&C („Contract“ or „Contract Documents“). These T&C also apply as amended from time to time, as framework agreement for subsequent Contracts without explicit acknowledgment and inclusion of these T&C by AGENT. Defined terms in the Contract also apply to these T&C. In case of discrepancies between these T&C and the Contract, the Contract shall prevail

1.2 Conflicting provisions and provisions overlapping with the Contract Documents – in particular those in general terms and conditions of CUSTOMER – do not become part of the contract, even if those provisions are attached to an order of CUSTOMER and even if AGENT executes such order without objecting explicitly to these general terms and conditions.

2. Scope of Contract, Conclusion of Contract, Written Form

2.1 These T&C apply also to all pre-contractual relationships between AGENT and CUSTOMER.

2.2 Unless an offer of AGENT does not explicitly state otherwise, the offer is valid for four (4) weeks. AGENT may accept offers by the CUSTOMER within four (4) weeks in writing.

2.3 The conclusion of the Contract, subsequent amendments and supplements as well as any notice of termination, reminder, settings of deadlines and other declarations of intent in connection with the Contract shall always be in writing. This is also valid for a waiver of the written form. Instead of the written form, text form (Section 126b German Civil Code (*BGB*)) shall suffice. Oral agreements are not permitted and there are none.

2.4 Section 127 paragraph 2 German Civil Code (*BGB*) does not otherwise apply.

2.5 Undertakings of any kind which constitute additional obligations of AGENT other than set out in these T&C and in any Contract Documents, need the explicit and written approval of AGENT by a declaration signed by the management of AGENT.

3. Binding Contract, Setting of Deadlines

3.1 Contractual or statutory settings of deadlines by the CUSTOMER need to have at least a ten (10) business days deadline, unless such deadline would constitute an unreasonable impairment of CUSTOMER.

3.2 When the CUSTOMER wants to refuse the contractual services in case the deadline set by him has expired or wants to terminate the Contract (e.g. rescission, termination) and/or wants to claim damages in lieu of the services, the CUSTOMER must threaten AGENT with the refusal of the contractual services, the termination of the Contract or claim of damages in lieu of services in writing together with the setting of the deadline. After expiration of the deadline, AGENT may request that the CUSTOMER exercises his rights resulting from the expiration of the deadline he has threatened AGENT with within ten (10) business days after receipt of AGENT's request. Services already provided shall be invoiced according to the Contract. Section 9 of these T&C applies for the claim of damages.

4. Provision of Services

4.1 Value performance is exhaustively completely set out in the Contract. The AGENT is only obliged to provide the services explicitly stipulated in the Contract.

4.2 The employees used by AGENT during the execution of the Contract are not integrated in the business of the CUSTOMER and the CUSTOMER may not instruct these employees. The CUSTOMER may only give instructions to the contact persons nominated by AGENT in the Contract within the limits of the scope of the Contract.

4.5 The decision which employees AGENT uses, lies solely with AGENT. AGENT may replace the employees used with other employees at any time. AGENT may use free lancers and third parties to fulfil its contractual obligations.



5. Contribution of CUSTOMER

5.1 During the entire term and within the scope of the Contract, the CUSTOMER needs to closely and faithfully cooperate with AGENT and shall contribute reasonably to the fulfilment of the Contract. Insofar, the CUSTOMER shall actively contribute to the provision of services by AGENT to the extent necessary, e.g. by providing, if necessary, marketing collaterals, press material or items for the respective projects or actions, requests and/or assignment, by answering questions and by controlling work results of AGENT. Furthermore the CUSTOMER provides the login data for the supervising Amazon and/or eBay Account. The CUSTOMER remains, during the duration of the contract and afterwards, the owner of the Amazon and/or eBay Account.

5.2 The CUSTOMER names a qualified contact person/project manager and notifies his contact details that allow contact with the contact person and his designated proxy at any time. The contact person must be able to make the necessary decisions by himself or to procure them immediately on behalf of the CUSTOMER. The CUSTOMER shall immediately notify to AGENT all modifications of the contact details in writing. The CUSTOMER shall provide his employees which have specific know how necessary for the execution of the Contract and to the provision of the contractual services by AGENT at no cost.

5.3 Any prejudice and additional costs resulting from a breach of this Section 5 and other contribution obligations of the CUSTOMER set out in the Contract are at the expense of CUSTOMER. In particular, the CUSTOMER is not dispensed from his obligation to pay the contractual fees, if AGENT can not provide services due to deficient or default contributions of CUSTOMER, his contact persons or other employees of CUSTOMER.

6. Remuneration

6.1 The remuneration is set, if a contractually agreed revenue share, as the revenue share percentage in the Contract. All accounted prices are set without the legal value added tax. AGENT is authorized to invoice partial performance. The remuneration will be invoiced at the beginning of each month for the preceeding month.

6.2 Payments are due within ten (10) days after receipt of invoice without discount. After the due date, AGENT invoices interest for default at the applicable statutory rate.

6.3 In case payments are not made or not made on time, AGENT is not obliged to deliver services and may refuse the provision of service until full and final payment.

7. Rights

7.1 AGENT grants CUSTOMER a perpetual, geographically unrestricted usage right for all product texts and product pictures.

7.2 All data collected by AGENT during the term of the Contract shall belong to the CUSTOMER. AGENT has the right to use these data during the term of the Contract to fulfill its contractual obligations. Each party maintains all rights to data generated by itself.

8. Representations and Warranties

8.1 In case of deficiencies, the CUSTOMER shall immediately notify AGENT in writing by providing an exact description of the problem and all useful information to remedy the deficiency.

8.2 AGENT does not make any guarantees, in particular not about any increase of revenues and/or sales, resulting from the services provided under the Contract.

9. Liability

9.1 AGENT is only liable to the full extent in case of intent or gross negligence by itself or its legal representatives or vicarious agents and in case of missing characteristics guaranteed by AGENT. In case of negligence AGENT is only liable in the event of a breach of major contractual obligations (*Kardinalspflicht*) and only in the amount of the foreseeable damage and limited to an amount corresponding to the overall fee of six (6) month under the Contract. In addition AGENT shall not be liable for indirect damages, consequential damages and/or lost gain. All other liability of AGENT is excluded. The limitations of liability afore mentioned also apply for AGENT's legal representatives, employees and third parties contracted by AGENT.

9.2 The limitations of liability according to Section 9.1 do not apply to personal damages (life, body and health), in case of fraudulently concealed damages and to claims arising from mandatory law, in particular from the German Product Liability Act (*Produkthaftungsgesetz*).

9.3 All claims against AGENT for damage or reimbursement of wasted expenses are barred after two (2) years upon CUSTOMER becomes aware of the damage and should have become aware. Regardless of CUSTOMER being aware or should have become aware, damage claims are barred three (3) years upon the event that has caused the damage. The aforementioned limitation shall not apply in cases where AGENT acted with intention or gross negligence, in case of personal damage or liability arising from mandatory law, in particular from the German Product Liability Act. This Section 9.3 does not apply to time limits for defects.



9.4 In case of data loss caused by negligence liability is limited to the usual recovery effort, which would happen when there are backup files.

9.5 Sections 9.1 to 9.3 also apply *mutatis mutandis* for the CUSTOMER.

9.6 The CUSTOMER shall hold AGENT and all its affiliated companies according to Section 15 et seq. of the Stock Corporation Act (*AktG*) fully indemnified against claims of third parties (including legal costs) made against AGENT and all its affiliated companies according to Section 15 et seq. Stock Corporation Act (*AktG*) for breach of the contribution obligation (Section 5 of these T&C) by CUSTOMER on first demand. This indemnification also relates to all claims that third parties may raise due to alleged breach of patent, intellectual property, trademark, business secret and unfair competition. AGENT shall hold CUSTOMER fully indemnified against claims of third parties (including legal costs) made against CUSTOMER for alleged breach of patent, intellectual property, trademark and any other third party rights by AGENT on first demand.

10. Confidentiality and Data Protection

10.1 AGENT and CUSTOMER shall maintain confidential all Confidential Information of the other party received under the Contract. „**Confidential Information**“ is all information, disclosed or otherwise received under the Contract, insofar that a party must have been aware due to the nature of the information that the other party considers this information confidential even if not explicitly declared as confidential. Confidential Information is in particular, but not limited to, all information of AGENT about know how, business models, processes and (marketing-) concepts.

10.2 The obligation to confidentiality according to Section 10.1 does not apply to disclosed Confidential Information, if (i) and when such Confidential Information was owned by a party lawfully prior to disclosure by the other party without a secrecy obligation, (ii) if such Confidential Information was made public not on behalf of a party, or if it is been made public in any other way without such party being responsible for it, (iii) if such Confidential Information has been transferred after the Contract conclusion by one or more third parties without a secrecy obligation lawfully, i.e. without violating the Contract by the receiving party; (iv) such Confidential Information is made public with the written consent of the other party, (v) if, independently of the publication by the other party, the party or one of its affiliates according to Sect. 15seq. Stock Corporation Act (*AktG*) has developed Confidential Information at the time or after the Contract has come into effect, (vi) if it has been made accessible to a third party by the disclosing party without the respective duties and restrictions, (vii) if they have to be disclosed according to legal or administrative regulations, if the disclosing party is immediately informed and the scope of the disclosure is limited as much as possible, or in accordance with a court decision must be disclosed, if the disclosing party is notified of this decision immediately and it is not possible to contest the decision, or (viii) the transfer to third parties is necessary to fulfil the Contract.

10.3 The CUSTOMER may grant access to Confidential Information that he has received from AGENT under the Contract, to his employees only on a need to know basis. The CUSTOMER may grant third parties access to Confidential Information only if approved by AGENT. The CUSTOMER shall inform all persons he grants access to AGENT´s Confidential Information about AGENT´s rights and the confidentiality obligations in relation to such Confidential Information and shall obligate these persons in writing to comply with the confidentiality obligations.

10.4 The confidentiality rules according to this Section 10 stay in force upon two (2) years after termination of the Contract.

10.5 AGENT has the right to use the cooperation with the CUSTOMER for marketing purposes, as a reference, particularly for marketing materials (Tombstones) or publication in press or in the internet (e.g. Homepage). In this context AGENT has the right to use the company name and brand presentation (e.g. logo, figurative and word mark) of CUSTOMER.

10.6 Additional publications has to be arranged with the CUSTOMER before publication.

10.7 The parties shall comply with all applicable data protection laws. The CUSTOMER ensures that he discloses all other facts beyond applicable data protection laws necessary for compliance with confidentiality and privacy to AGENT. Login credentials (username, password etc.), which are used for protected data access, have to be kept secure and cannot be made accessible to third parties. If the CUSTOMER becomes aware that third parties have obtained login credentials, or when there is a probable cause, the CUSTOMER has to inform AGENT immediately in writing.

11. Term

11.1 Term, termination and termination deadlines are set out in the Contract.

11.2 Regardless of the contractual agreements a termination for cause is always possible. For each party, a good cause is particularly given, if (i) insolvency or composition proceedings against the assets of the other party have been opened or the opening of such proceedings due to lack of assets has been refused, (ii) if enforcement measures are administered against the other party and not resolved within a month and/or (iii) if the other party commits repudiatory breaches of the Contract and/or these T&C. For AGENT, a good cause is also particularly given, if (i) the CUS-



TOMER suspends its payments or the pecuniary circumstances of the Customer aggravate substantially, (ii) the majorities in the ownership of the CUSTOMER change (change of control), and/or (iii) if the CUSTOMER violates its duties to collaborate to a substantial extent, which is already given in the case of a single violation of the duties to collaborate.

11.3 All terminations need to be in writing.

11.4 In case of termination of the Contract (i) every party is obliged to return all Confidential Information to the other party or to destroy on its demand and to confirm the completeness of the return or the destruction on demand in written form. The aforementioned does not apply if the receiving party is obliged, under statutory retention obligations, to retain Confidential Information independently (such retention may not be delegated to third parties), or in so far as the Confidential Information may be needed for evidence purposes due to ongoing or pending lawsuits. Confidential Information is also excluded from the obligation to destroy it if it is secured automatically by backups made by data backup systems to which there is no systematic access; (ii) the contractual claim of payment from AGENT, after the end of Contract, ceases only with complete remuneration according to the Contract.

11.5 In case of termination, the CUSTOMER may not demand repayment of fees paid to AGENT for services already provided by AGENT.

12. Miscellaneous

12.1 The then current version of the T&C at the time of the conclusion of the Contract shall apply. AGENT reserves the right to amend its T&C at any time for future business transactions. In this case, the intended change must be communicated to the CUSTOMER in writing. The changes will be deemed approved if the CUSTOMER does not raise objections in writing. AGENT shall provide a special notice as to this consequence in the announcement of the changes. The written objection must be received by AGENT within four (4) weeks of the notification of the changes. If such objection is raised, the Contract will remain in force without the proposed changes. The right of the parties to terminate the Contract remains unaffected thereof.

12.2 The CUSTOMER is not entitled to transfer and/or assign any rights and obligations from the Contract and these T&C to a third party without the prior written approval by AGENT. AGENT is entitled to transfer part or all of its rights and obligations from the Contract to a company that is an affiliate of AGENT according to Section 15 et seq. Stock Corporation Act (*AktG*).

12.3 The CUSTOMER may only offset claims which are undisputed or found to be legally valid against the claims of AGENT. The CUSTOMER may not assign his rights to third parties – except as set out in Section 354a Commercial Code (HGB). The CUSTOMER does not have a right of retention in Confidential Information and/or other items owned by AGENT.

12.4 Place of execution of all services by AGENT is Munich.

12.5 Only German law applies under exclusion of its conflict of law provisions and the United Nations Convention on the International Sales of Goods from 11 April 1980.

12.6 The place of jurisdiction for all disputes arising from the contract and this T&C is Munich, insofar as is legally permissible.

12.7 Should one or several provisions of these T&C be or become fully or partly invalid, the validity of the remaining provisions of these T&C will not be affected thereby.

Munich, July 2021